

Article - Environment

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§15–508.

(a) (1) The Department may require an operator to establish and maintain such records, make such reports, and provide such information as may reasonably be required to enable the Department to determine whether the operator has acted or is acting in compliance with this subtitle and rules and regulations promulgated pursuant to it.

(2) The operator of every strip mine operation shall, on or before the 25th day of each month, file with the Department a monthly report covering the preceding calendar month on a form furnished by the Department. The report shall state the actual tonnage of coal produced by each seam, the number of employees, and the number of serious and fatal accidents which have occurred.

(3) The operator of every strip mine operation shall, on a schedule established by the Department, file with the Department an annual report on a form furnished by the Department. The report shall summarize the information from the monthly reports and the mining and reclamation progress report for the preceding calendar year.

(b) (1) The operator of every strip mine operation which continues to operate beyond 1 year shall, on a schedule established by the Department, file with the Department a mining and reclamation progress report. The report shall provide, on forms furnished by the Department, the following information:

(i) The total acres and open acre limit approved, permitted, and bonded;

(ii) The total acres affected, backfilled, and planted on the permit;

(iii) The total acres of approved planting on the permit;

(iv) The total open acres on the permit; and

(v) The information reported on the mining and reclamation progress report for the preceding year.

(2) The mining and reclamation progress report shall be accompanied by a map prepared and certified by a registered professional engineer,

a registered land surveyor, or other person approved by the Department. The map shall contain the information required under § 15–505(c)(2) of this subtitle and the following additional information:

- (i) The surveyed boundaries of the areas presently disturbed;
- (ii) The surveyed boundaries of all backfilled areas;
- (iii) The surveyed boundaries of all planted areas, including the month and year each area was planted;
- (iv) The boundaries of the areas remaining to be disturbed;
- (v) The present location and length of the highwall; and
- (vi) A legend containing all information required by this subsection.

(3) (i) Upon notification by the Department of the schedule to file the mining and reclamation report, an operator may notify the Department, in writing, if land has not been disturbed on any strip mine operation during the preceding year.

(ii) If the Department approves the notification, the map required under paragraph (2) of this subsection will not be required to be submitted with the mining and reclamation progress report.

(4) (i) The Department shall review the mining and reclamation progress report.

(ii) If the Department determines that the report is correct, the report shall be approved.

(iii) If the Department does not approve the report, the Department shall notify the operator in writing, setting forth the reasons for disapproval, and identifying the action necessary to secure approval.

(iv) The operator shall take the action necessary to secure approval of the report.

(c) (1) The Department and its authorized agents, without advance notice and upon presentation of appropriate credentials, shall have the right of entry to, on or through any open-pit mining or prospecting operation or any premises in which any records required to be maintained under this subtitle are located to

determine conditions of safety and to assure compliance with the provisions of this subtitle, any rules and regulations promulgated under it and any permit conditions, and shall have access to and the right to copy any records, reports, or other information, and to inspect any monitoring equipment or method of operation required by the Department under this subtitle.

(2) If an operator fails to comply with requirements of this subtitle, any rule or regulation or permit condition, the Department immediately shall notify the operator by certified mail or personal delivery of the failure and require compliance within a reasonable time but not to exceed 90 days. The Department may extend beyond 90 days the total time for abatement of a violation, if the operator demonstrates by clear and convincing evidence, and the Department makes a written finding, that compliance within 90 days is unattainable either because of conditions totally beyond the control of the operator, or because abatement of the violation within 90 days would require action violative of mine safety standards established under federal or State law or would clearly cause more environmental harm than it would prevent. If the operator does not comply within the time specified, or any extension which may be granted, the Department shall issue a cease and desist order requiring the operator immediately to cease all or a portion of the open-pit mining operation in question until the Department determines that the operator is in full compliance. Copies of all records, reports, inspection materials, and information shall be available to the public. If the operator persistently or repeatedly fails to comply with a notice or order, the Department shall issue an order requiring the operator to show cause why the permit should not be revoked and provide opportunity for an adjudicatory hearing in accordance with § 15-514 of this subtitle. The Department also may order the immediate stopping of any operation conducted by an operator who lacks the license or permit required by this subtitle.

(d) If the Department determines that a probable permit acreage or boundary violation exists, it may order an operator to submit a map showing the status of the operation as of the date of the order.

(e) If, on the basis of an inspection, the Department determines that any condition or practice exists, which condition or practice creates an imminent danger to the health or safety of the public, or is causing or may reasonably be expected to cause significant imminent environmental harm, the Department or its agent shall immediately issue a cease and desist order requiring the operator immediately to cease open-pit mining on all or part of the operation in question until the Department determines that the operator is in full compliance. If cessation of open-pit mining is not sufficient to abate the imminent danger or harm, the Department shall also impose such affirmative obligations upon the operator as are necessary to abate the danger or harm.

(f) Within 30 days from the date of a notice or order under this section, or from the date of a related civil penalty assessment under § 15–521(b) of this subtitle, whichever is later, any person having an interest which is or may be adversely affected may request an adjudicatory hearing pursuant to Title 10, Subtitle 2 of the State Government Article. If a civil penalty assessment is made, any adjudicatory hearing on the penalty amount shall be combined with the hearing on the violation, and the assessment must be paid into escrow in accordance with § 15–521(b)(4) of this subtitle. The Department shall conduct an investigation and provide the operator and other interested persons written notice of the time and place of the hearing at least 5 days prior to the hearing. Within 30 days of the hearing the Department shall issue a written decision. Prior to the decision, the Department may grant temporary relief from a notice or order if an applicant can show a substantial likelihood of success on the merits, a public hearing on the temporary relief is held, and the relief will not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air, or water resources.

(g) A person seeking administrative or judicial review of a notice or order, or who participates in an action under § 15–528 of this subtitle, may request the Department or court to assess an opposing party for all expenses, including attorneys' fees, reasonably incurred by the person in connection with the proceedings. The Department or court may order reimbursement as deemed proper.

(h) Any person may request an inspection by providing the Bureau with a signed written statement that gives reason to believe that an operation may be in violation of this subtitle or the Bureau's rules and regulations. If an inspection is made the person who requested the inspection shall have a right to accompany the inspector; provided that, he or she voluntarily remains under the control and direction of the inspector at all times, and assumes all risk of injury. In any case, the person shall be provided with a written report from the Bureau that indicates the results of an inspection, or the reason why no action was taken on the request.

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